

# ASSEMBLY, No. 3286

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 5, 2014

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Prohibits advertising of certain products to minors on websites; requires website operators to allow minors to delete posts.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning Internet websites and minors and  
2 supplementing Title 56 of the Revised Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. As used in P.L. , c. (C. ) (pending before the Legislature  
8 as this bill):

9 "Body piercing" means the creation of an opening in a human  
10 body for the purpose of inserting jewelry or other decoration, which  
11 includes, but is not limited to, the piercing of an ear, including the  
12 tragus, lip, tongue, nose, or eyebrow.

13 "Branding" means the process in which a mark or marks are  
14 burned into human skin tissue with a hot iron or other instrument,  
15 with the intention of leaving a permanent scar.

16 "Ephedrine group alkaloids" means ephedrine, pseudoephedrine,  
17 norephedrine, norpseudoephedrine, methylephedrine, and  
18 methylnpseudoephedrine.

19 "Internet website, online service, online application, or mobile  
20 application directed to minors" means an Internet website, online  
21 service, online application, or mobile application, or a portion  
22 thereof, that is created for the purpose of reaching an audience that  
23 is predominately comprised of minors, and is not intended for a  
24 more general audience comprised of adults.

25 "Marketing or advertising" means, in exchange for monetary  
26 compensation, to make a communication to one or more  
27 individuals, or to arrange for the dissemination to the public of  
28 communication, about a product or service the primary purpose of  
29 which is to encourage recipients of the communication to purchase  
30 or use the product or service.

31 "Minor" means a person under 18 years of age.

32 "Operator" means any person or entity that owns an Internet  
33 website, online service, online application, or mobile application  
34 that is available to individuals in this State. It does not include any  
35 third party that operates, hosts, or manages, but does not own, an  
36 Internet website, online service, online application, or mobile  
37 application on the owner's behalf or processes information on the  
38 owner's behalf.

39 "Posted" means content or information that can be accessed by a  
40 user in addition to the minor who posted the content or information,  
41 whether the user is a registered user or not, of the Internet website,  
42 online service, online application, or mobile application where the  
43 content or information is posted.

44 "Tattooing" means the insertion of pigment in human skin tissue  
45 by piercing with a needle.

46  
47 2. a. An operator of an Internet website, online service, online  
48 application, or mobile application directed to minors or an operator

1 of an Internet website, online service, online application, or mobile  
2 application that has actual knowledge that a minor is using its  
3 Internet website, online service, online application, or mobile  
4 application shall not market or advertise, or allow to be marketed or  
5 advertised, to a minor a product or service concerning:

6 (1) Alcoholic beverages, as defined in section 3 of P.L.1987,  
7 c.152 (C.2A:22A-3);

8 (2) Branding;

9 (3) Cigarettes, as defined in section 102 of P.L.1948, c.65  
10 (C.54:40A-2);

11 (4) Dangerous fireworks, as defined in R.S.21:2-3;

12 (5) Drug paraphernalia, as defined in N.J.S.2C:36-1;

13 (6) Electronic smoking devices, as defined in section 3 of  
14 P.L.2005, c.383 (C.26:3D-57);

15 (7) Ephedrine group alkaloids;

16 (8) Firearms, as defined in N.J.S.2C:39-1;

17 (9) Less-lethal ammunition, as defined in N.J.S.2C:3-11;

18 (10) Obscene material, as defined in N.J.S.2C:34-3;

19 (11) Spray paint, as defined in section 7 of P.L.1995, c.251  
20 (C.2C:33-24);

21 (12) Tanning facilities, as defined in section 2 of P.L.1989, 234  
22 (C.26:2D-82);

23 (13) Tattooing and body piercing; and

24 (14) Tobacco products, as defined in section 2 of P.L.1990, c.39  
25 (C.54:40B-2).

26 b. An operator shall be deemed to be in compliance with  
27 subsection a. of this section if the operator takes reasonable actions  
28 in good faith designed to avoid marketing or advertising, or  
29 allowing the marketing or advertising of, the products or services  
30 provided in subsection a. of this section to a minor.

31

32 3. a. An operator of an Internet website, online service, online  
33 application, or mobile application directed to minors or an operator  
34 of an Internet website, online service, online application, or mobile  
35 application that has actual knowledge that a minor is using its  
36 Internet website, online service, online application, or mobile  
37 application shall:

38 (1) Allow a minor who is a registered user of the operator's  
39 Internet website, online service, online application, or mobile  
40 application to remove, or to request and obtain removal of within  
41 seven days of the request, content or information posted on the  
42 operator's Internet website, online service, online application, or  
43 mobile application by the user;

44 (2) Provide notice to a minor who is a registered user of the  
45 operator's Internet website, online service, online application, or  
46 mobile application that the minor may remove, or request and  
47 obtain removal, of content or information posted on the operator's  
48 Internet website, online service, online application, or mobile

1 application by the registered user. The notice shall explain that the  
2 removal described in paragraph (1) of this subsection does not  
3 ensure complete or comprehensive removal of the content or  
4 information posted on the operator's Internet website, online  
5 service, online application, or mobile application; and

6 (3) Provide clear instructions to a minor who is a registered user  
7 of the operator's Internet website, online service, online application,  
8 or mobile application on how the user may remove, or request and  
9 obtain the removal of, content or information posted on the  
10 operator's Internet website, online service, online application, or  
11 mobile application.

12 b. An operator of an Internet website, online service, online  
13 application, or mobile application shall be deemed in compliance  
14 with subsection a. of this section if the operator renders the content  
15 or information posted by the minor user no longer visible to other  
16 users of the service and the public even if the content or information  
17 remains on the operator's servers or the content or information  
18 remains visible because a third party has copied the posting or  
19 reposted the content or information posted by the minor.

20 c. An operator of an Internet website, online service, online  
21 application, or mobile application, or a third party using an Internet  
22 website, online service, online application, or mobile application, is  
23 not required to erase or otherwise eliminate, or to enable erasure or  
24 elimination of, content or information if any other provision of  
25 federal or State law requires the operator or third party to maintain  
26 the content or information.

27  
28 4. a. The provisions of P.L. , c. (C. ) (pending before  
29 the Legislature as this bill) shall not limit the authority of a law  
30 enforcement agency to obtain any content or information from an  
31 operator as authorized by law or pursuant to a court order.

32 b. The provisions of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill) shall not be construed to require an operator  
34 of an Internet website, online service, online application, or mobile  
35 application to collect or retain age information about its users.

36  
37 5. This act shall take effect on January 1, 2015.

#### 40 STATEMENT

41  
42 This bill prohibits an operator of an Internet website, online  
43 service, online application, or mobile application from marketing or  
44 advertising specified types of products or services to a minor. An  
45 operator is deemed to be in compliance with this bill if the operator  
46 takes reasonable actions in good faith designed to avoid marketing  
47 or advertising the prohibited products or services to a minor. The  
48 prohibited products and services include:

- 1       • Alcoholic beverages;
- 2       • Branding;
- 3       • Cigarettes;
- 4       • Dangerous fireworks;
- 5       • Drug paraphernalia;
- 6       • Electronic smoking devices;
- 7       • Ephedrine group alkaloids;
- 8       • Firearms;
- 9       • Less-lethal ammunition;
- 10      • Obscene material;
- 11      • Spray paint;
- 12      • Tanning facilities;
- 13      • Tattooing and body piercing; and
- 14      • Tobacco products.

15

16       This bill also requires the operator of an Internet website, online  
17 service, online application, or mobile application to permit a minor  
18 who is a registered user of the operator's Internet website, online  
19 service, online application, or mobile application to remove, or to  
20 request and obtain removal of within seven days of the request,  
21 content or information posted by the minor. An operator is required  
22 to provide notice to a minor that the minor may remove the content  
23 or information. The operator is not required to remove content or  
24 information if any provision of State or federal law requires the  
25 operator or third party to maintain the content or information.

26       This bill does not limit the authority of a law enforcement  
27 agency to obtain any content or information from an operator as  
28 authorized by law or pursuant to a court order.

29       This bill addresses public safety concerns as they relate to  
30 minors in this State. Minors have increasing access to various  
31 forms of interactive media through computers, smartphones, and  
32 other technological devices. It is in the interest of the State to  
33 protect minors from advertisements for harmful products on  
34 websites that minors may use. Further, it is in the interest of the  
35 State to require websites to allow minors to delete posts that the  
36 minor may have posted in haste or in error.